

CHAPTER IV

REQUIRED DOCUMENTS FOR HOUSING PROJECT MANAGEMENT

Each individual housing project rehabilitation must have its own file that contains documents that DED requires to ensure the successful completion of the project. This Chapter provides a description and/or listing of these required documents for housing construction projects, but does not include those documents that are required for demolition projects and lead-based paint compliance. For demolition requirements, please refer to Chapter VII. For lead-based paint requirements, please refer to Chapter V.

Grantees are required to keep project files containing information for each house that is rehabilitated with the use of CDBG funds.

Information contained in the files should include:

- an application for rehabilitation assistance from the LMI owner or tenant occupant of the house, and from the rental property owner (Exhibit 9),
- income verifications (Exhibit 10),
- proof of property ownership,
- preliminary inspection report, unless the cost estimate is substituted (Exhibit 12),
- rehab inspector's cost estimate,
- rehab and demolition bid specifications (Exhibit 13),
- signed rehab and demolition contracts containing civil rights certification and the signatures of all parties involved (Exhibits 16, 17, 18, 19),
- signed change orders (Exhibit 21),
- evidence of worker's compensation or documentation of exception for each contractor,
- notarized lien waivers (Exhibit 22),
- lead-based paint compliance documents,
- rent freeze agreements,
- supportive services documentation, i.e., sign-in sheet and materials used,
- proof of first-time homebuyer status, and

- a Certificate of Completion (Exhibit 26).

APPLICATION FOR ASSISTANCE

An application for assistance, signed by the beneficiary of the project, is required by DED (See Exhibit 9 for example). This application should contain all of the necessary information to determine the eligibility of the beneficiary for grant assistance. The application should also give the grantee's rehab inspector permission to inspect the property. Beneficiaries must disclose all sources of household income in this application, the characteristics of occupants, and attest to the validity of this information.

All applications must be accepted or rejected. Each application that is not approved must have a letter stating why (See Exhibit 14 for such an example). Similarly, grantees are encouraged to require the owner to sign an agreement for improvements after their application is approved for assistance. An example of such an agreement is found in Exhibit 15. This agreement ensures that the property owner is committed to the project and improvements identified by the inspector before it is bid out.

- ★ **Best Practice:** Grant administrators should assist the applicant in filling out the application to ensure that all required information is entered to facilitate project implementation. A copy of the grantee's housing rehabilitation guidelines should be provided to each applicant to inform them about the program requirements.

For the required home maintenance seminar and the financial counseling, grantees are encouraged to include a section in the application that informs the applicant that they are required to attend these two supportive services classes as a part of receiving rehabilitation assistance. This requirement must also be made a provision in the grantee's rehabilitation guidelines and rehabilitation contract.

INCOME VERIFICATION

Grantees must verify that beneficiaries have an "adjusted gross income" below low-income limits as defined by HUD (See Exhibit 10.) HUD defines "Adjusted Gross Income" under 24 CFR Part 570.3 for the purposes of reporting on Form 1040 for Income Tax purposes.

Grantees must estimate the annual income of a household by projecting income for a 12-month period from the date the application is approved for housing rehab assistance or downpayment assistance. Grantees must assume each applicant's income sources would remain the same during the 12-month period following the approval of the signed application. In all cases, employment in effect at the time the application is submitted will be verified, even if the previous year's tax form reported a previous employer.

A simple statement signed by the head of household is **not** acceptable as income verification. Each applicant's household income(s) must be verified through one of the following methods:

- 1) The applicant voluntarily submits a certified tax form for the calendar year immediately proceeding the year the application is submitted. A certified form is one that is signed by a third party preparer and the applicant, or a copy is provided by the IRS, or which can be

verified using W-2 forms and other forms submitted by the applicant to verify the income listed on the tax form.

- 2) Third party verifications. This method involves sending forms to an applicant's employer, social security office, and other sources of income. The form is then filled out and sent back to the grantee (See Exhibit 11 for examples of forms that can be sent to third parties). Please note these forms are examples only. Select only those forms that are necessary to the income sources listed on their application.
 - 3) If neither of the above two methods can be used, the grantee may verify income through having the applicant submit one year's worth of bank statements for all of their accounts, and/or use payroll receipts showing year-to-date figures for a minimum of a six month period.
- ★ **Best Practice:** Grantees should not process applications unless it can reasonably expect the applicant's house will begin being rehabilitated within 6-months from the date the application is approved by the grantee for rehabilitation assistance.

Grantees are not required to verify the income of a rental property owner that indicates they earn above the LMI income limits on their application. However, the grantee must obtain a written commitment from the rental property owner agreeing to pay 25% of the rehabilitation cost or you must reject their application.

PROOF OF PROPERTY OWNERSHIP

Grantees must show that a homeowner or landlord has title to the property by certifying that the owner has the last recorded deed at the office of the County Recorder. A copy of the deed must have the stamp of the County Recorder. Please Note: Any person who rents to another member of his immediate family should not be considered a landlord and the occupant of the house may be considered as an owner occupant for the purposes of this program. However, the owner of record must sign all contracts, unless the owner, in writing, authorizes the relative/occupant to sign on their behalf. An immediate family member includes fathers, mothers, sons, daughters, brothers, and sisters.

DED will accept the following documentation for proof of ownership:

- 1) Contract for Deeds/Land Sales Contracts are acceptable to document property ownership if they meet the following requirements:
 - a) The contract shall be a written, legally binding, instrument involving a residential property containing not more than one dwelling unit.
 - b) The seller of the property must hold fee title to the property and while the contract is in good standing, must be unable to use the property for collateral or convey the property to any other party. Legally acceptable limitations on the effect of conveyance or use of the property for collateral must be found to exist under local law, the provisions of the contract, or some other written agreement in recordable form.

- c) Under the contract, the seller and any subsequent owner of the property must be obligated, without qualification, to deliver to the purchaser fee simple title and a deed to the property upon full payment of the contract price.
- d) Under the terms of the contract, the purchaser shall have:
 - (1) Full use, possession, and quiet enjoyment of the property,
 - (2) Equitable title to the property, and
 - (3) Full rights of redemption for a period of not less than 90 days.
- 2) Deeds of Trust that are recorded and include a 90 day right of redemption provision.
- 3) Records of Local Taxing Authority that show the applicant as owner and demonstrate that the applicant pays the property's real estate taxes.
- 4) Instruments that Evidence Ownership, such as Title Opinions by an attorney, or an Ownership and Encumbrance Report are acceptable.

Any property that does **not** meet the above stated ownership requirements should be treated as rental property for the purposes of the CDBG program.

- ★ **Best Practice:** If any question exists as to who owns the property, the grantee should have their attorney make a determination of who owns the property and whether the document in question provides one of the above ownership rights. Grantees may also, with the approval of DED, use CDBG homeownership funds to convert a contract for deed into full ownership.

RENT FREEZE AGREEMENT

Requirements for rental units embodied in the rent freeze agreement should be included in the file. The document should indicate that the rents were affordable under the fair market rents (FMR) that were in effect at the time the application from the owner was submitted. The rent freeze agreement form can be found as Exhibit 5. Also, include a copy of the FMR in the applicant's rehab file that was applicable after the rental unit was rehabilitated and leased.

PRELIMINARY INSPECTION REPORT (Deficiency List)

Grantees are required to have a deficiency list (preliminary inspection report) in their file indicating the problems, which exist for each house that is to be rehabilitated. The grantee may substitute the rehabilitation inspector's itemized cost estimate in place of the deficiency list. The feasibility of rehabilitating a house should be determined by the amount of material, labor, overhead, and profit required to comply with DED Housing Quality Standards. Generally, a house is infeasible to rehabilitate:

- 1) if CDBG rehabilitation funds in excess of \$15,000 are needed to bring the unit up to DED health and safety HQS, or

- 2) if the cost of rehabilitation exceeds 75% of the appraised value of the property after rehabilitation, or
- 3) if the cost of the rehabilitation (exclusive of lead hazard reduction costs) exceeds \$15 per square foot of conditioned living space.

Examples of deficiency lists are included in Exhibit 12.

Please note: Deficiencies from DED's HQS (non-lead) must be listed before a lead risk assessment is conducted so that surfaces to be disturbed can be identified and tested for lead content.

Any house to be rehabilitated that does not have a deficiency under DED's HQS is not eligible to be rehabilitated with CDBG funds.

- ★ **Best Practice:** Inspectors are encouraged to use a digital camera to document substandard conditions that must be addressed prior to and during the course of the rehabilitation. These pictures can also be used as part of the contract specifications to better explain the work that must be accomplished.

COST ESTIMATES

Grantees must develop cost estimates of the rehabilitation work to be accomplished. Cost estimates should be prepared using cost of labor estimates from local area contractors and cost of material estimates from local area material suppliers. Cost estimates are required in almost all cases under both public and private procurement requirements (See Chapter VIII). Cost estimates must be used to determine that a house is not feasible to rehabilitate. Cost estimates must be prepared by the grantee's rehabilitation inspector totally independent of any contractors before a project is bid out.

CONTRACT SPECIFICATIONS

Construction specifications contained in bid documents, construction contracts, **and change orders** are required to be on file with the grantee.

Specifications must:

- Be written clearly;
- Include the quantity of materials to be used;
- The quality of material to be used;
- The exact location in the house where the materials are to be installed or applied;
- The methods by which the materials are to be installed.

Most quality housing rehabilitation programs have a general specifications performance manual indicating the quality of materials to be used and the installation methods. These general

specifications do not usually change from house to house; therefore, they only need to be prepared once and can be included in contracts on all houses, or by reference in the inspector's written specifications.

Specifications indicating the location of work in each house and the precise quantity of material to be used in these houses must be prepared separately for each house. For new construction projects and room additions, a copy of plans for the house should be in the files. An example of house specific specifications can be found in Exhibit 13. Please contact DED to receive a sample performance manual.

Please Note: Specifications that are coincidental to reducing lead-based paint hazards and lead abatement specifications (not coincidental to rehab work) must be identified in the work specification write-up by the rehab inspector. Friable and non-friable asbestos removal methods must also be included in the work and bid specifications. Refer to Exhibit 13 for sample lead-based paint specifications.

- ★ **Best Practice:** Inspectors working on more than one program at a time are encouraged to use specification writing computer programs to more efficiently prepare project specifications. However, this will not relieve the inspector from the job of developing project specific provisions in the specifications that indicate the quantity, quality, and the location of the materials to be installed for each house. Two of the better-known programs are, "Housing Developer Pro," distributed by the Enterprise Foundation and, "RESPEC," distributed by the Community Revitalization Training Center. Other programs exist and some inspectors create their own. DED does not recommend any one program over another and does not require automated spec writing programs.

CIVIL RIGHTS CERTIFICATIONS

Required civil rights certifications and language must be included in all housing rehabilitation contracts and professional service contracts as is described in the general CDBG Administrative Manual. Provisions for contracts over \$10,000 can be found in Exhibit 20. Provisions for contracts under \$10,000 can be found as part of the contract documents found in Exhibits 16, 17, and 18.

- ★ **Best Practice:** Refer to the FY-2005 CDBG Administrative Manual for the civil right certifications for all non-public facility construction contracts. As a safe harbor, use Appendix 1 from Exhibit 20 of this manual.

CONTRACTS/LOAN DOCUMENTS

Grantees must have a copy of all rehabilitation, demolition, and new construction contracts in their individual files. All contracts and change orders must be approved by the owner, the contractor, and the grantee. If the city is not a party to the construction contract, a separate grant agreement between the city and the property owner must also be executed (See Exhibit 16). All contracts must contain a provision for the owner to hold the city and the state harmless for any non-performance by the contractor under any terms of the contract, or for any liability due to construction activities by the contractor, including any increases in blood lead levels of the

occupants of the house. See Exhibit 17 for a two party contract between the owner and the contractor; Exhibit 18 for a three party contract between the owner, contractor, and grantee; and, Exhibit 19 for a two party contract where the owner is the contractor.

Change orders are considered part of a contract; therefore, they must be signed by all parties to the original contract. For a sample change order, see Exhibit 21.

WORKER'S COMPENSATION AND OTHER INSURANCE PROVISIONS

Worker's Compensation: All contractors with at least one employee must carry worker's compensation for their employees. Corporate contractors must carry worker's compensation for employees of the company, including officers working on the job. Exemptions include cases where all employees are members of the contractors' immediate household, or where a partnership agreement indicates all employees are partners. Partnerships are required to carry worker's compensation coverage for any employee who is not a member of the partnership. Contractors shall ensure that their subcontractors carry similar insurance. Documentation of coverage or exemptions must be provided in each file. Missouri has de-regulated the workers compensation rates. To aid in shopping among insurers, the state has set up a rate hotline number for employers at 888/200-1697. Information on companies with the lowest rates as well as the high, medium, and low rates for any particular class code is faxed back or mailed to the employer shopping for coverage. Non-insurance, worker's compensation compliance questions may directed to the Missouri Department of Labor's Division of Worker's Compensation at 573/751-4231.

General Liability: Grantees are strongly encouraged to require general liability coverage of their contractors at minimum amount of \$300,000, with personal injury losses at a minimum of \$100,000.

LIEN WAIVERS

For all houses rehabilitated through the use of private contractors, grantees are required to have originally signed copies of notarized lien waivers in their file for each prime contractor. The lien waiver should list all subcontractors, materials suppliers, and employees. Grantees are strongly encouraged to request lien waivers from all subcontractors, material men and workers prior to making payment to the contractor. For examples of Lien Waivers, see Exhibit 22.

- ★ **Best Practices:** For all rehab, demolition, and housing construction contractors, lien waivers should be **received by the grantee before each payment is made**. Grantees should also check for liens filed before making final payment. For any general contractor, **lien waivers should still be received before each payment is made to that contractor**. Lien waivers should be received that covers payment to the contractor's subcontractors, material suppliers, and workers.

LEAD-BASED PAINT POISONING

CDBG grantees must comply with Missouri Revised Statute 701.300-338, that covers the implementation of lead-based paint work practice standards, and with CDBG regulations at 24 CFR Part 570. Detailed administrative and procedural protocols are contained in Chapter V Lead-Based Paint Requirements. Required documentation that will be monitored by CDBG field representatives include the following:

- 1) All housing rehabilitation contracts must contain a provision that prohibits the use of lead-based paint having more than 5/100 of 1% lead weight by content. Rehabilitation contracts must also require contractors to comply with the OSHA regulations at 29 CFR 1926.
- 2) Documentation that the Department of Health and Senior Services has licensed the risk assessor conducting the risk assessments or lead hazard screens.
- 3) A copy of the lead reduction specifications, the occupant protection plan, and the OSHA worker protection plans for the lead hazard reduction activities.
- 4) For all lead **abatement** activities, proof that the Missouri Department of Health and Senior Services (DHSS) has licensed all lead contractors, supervisors and workers for the project and that a copy of the Lead Abatement Project Notification was provided to DHSS (Exhibit 25). **DO NOT submit this form if your choice of lead hazard reduction activities is renovation and remodeling or interim controls.** For a definition of these activities, see Chapter V.
- 5) A signed receipt by each home owner, tenant and rental property owner that acknowledges their receipt of the:
 - a) EPA booklet titled, "Protect Your Family from Lead in Your Home"
 - b) Lead Risk Assessment Report
 - c) Lead Clearance Test Report
 - d) Lead Safe Work Practices Certificate for the contractor and each employee.

CERTIFICATE OF COMPLETION/FINAL INSPECTION

Grantees are required to have on file, a certificate of completion of final inspection for each house rehabilitated, newly constructed, or demolished that is signed by the owner, the grantee's inspector, and a designated official of the grantee. The certificate must provide a description of the property that was improved (street address or legal description) and must certify that the house has been satisfactorily completed in accordance with the specifications of the signed rehabilitation, new construction, or demolition contract. Examples of certificates of completion can be found in Exhibit 26.

Procedure When Property Owner Refused to Sign the Final Certificate of Completion, or files a written grievance with the grantee regarding their application, rehab work, or relocation assistance.

The grantee should follow the steps in the procedure below to resolve written project grievance:

- 1) Request a written list of the items not completed to the owner's satisfaction.
- 2) Should an owner refuse to present such a list to the grantee, the grantee should mail a certified letter to the owner providing the owner a period of 10 – 15 days in which to provide such a list to the grantee.
- 3) Whether or not the grantee receives a list from the owner, the grantee must review the contractor's work to determine if the contractor has fulfilled all of the terms of the contract, that is, satisfactorily completed each work specification item to the satisfaction of the grantee's inspector.
- 4) If the grantee does not receive a deficiency list within the specified time period, the grantee should consider the matter closed; especially, if they have had the opportunity to determine that the contractor did fulfill the terms of the contract. After notifying the property owner of the matter being closed due to their failure to respond by the deadline, the grantee's re-inspection report, letter requesting a deficiency list from the property owner, and letter closing the matter must be placed in the project file as a substitute for the final certificate of completion.
- 5) Upon receipt of a deficiency list from an owner, the grantee shall re-inspect the property in accordance with the list as well as the contract work specifications.
- 6) After the contractor has addressed all reasonable requests, the house meets DED HQS, and the terms of the contract have been fulfilled, the grantee should again present the certificate of completion to the owner for their signature.
- 7) If the owner still refuses to sign, the grantee shall request a final list of deficiencies from the owner to present to the rehabilitation board.
- 8) When the board determines that the work is complete, the terms of the contract fulfilled, reasonable requests by the owner addressed, and the house meets DED HQS, further complaints by the owner should be placed in the file and the grantee should notify the owner that it considers the rehabilitation complete.

HOMEBUYERS

New Construction and Rehabilitation Project Homebuyers: For those benefiting from homeownership activities for the purchase of an existing dwelling, proof of status as a non-homeowner must be provided in the file. Generally, a certified copy of previous leases, or a verification of the dilapidated condition of a previous dwelling, or evidence that the person's former residence was owned by another person or a landlord should suffice.

Financing Activity: A statement of sources and uses of financing must be provided in each file to indicate the amount of assistance committed, along with commitments for construction financing, and an end mortgage loan from the participating public and private financial institutions. A HUD-1 Settlement Statement Costs form must be contained in the file of each LMI household that uses CDBG funds for down payment assistance.

First-Time Homebuyers of Existing Houses: Documentation is the same as that provided above, except that three years of documentation is needed. The applicant may submit a copy of their last three tax forms that would indicate their previous addresses and document if any interest rate deductions were taken at these addresses.

First Time Homebuyer Definition

We have adopted the Federal Home Loan Bank of Des Moines Affordable Housing Program definition of a first-time homebuyer.

The term “first-time homebuyer” means an individual or an individual and her or his spouse who have not owned a home during the prior 3-year period may purchase a home with CDBG assistance, except the following may not be excluded from this definition:

- 1) Any individual who is a displaced homemaker, and while a homemaker, owned a home with her or his spouse or resided in a home owned by the spouse;
- 2) Any individual who is a single parent, but while married, owned a home with her or his spouse or resided in a home owned by a spouse;
- 3) Any individual who owns or owned, as a principal residence during the 3-year, period, a dwelling unit that is:
 - a) not on a permanent foundation in accordance with local or other applicable regulations; or,
 - b) not in compliance with State, local, or model building codes, or other applicable codes, and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure; or
 - c) a mobile home, not attached to a permanent foundation, and which is not considered real estate by the locality, i.e., taxed as personal property.
- 4) Recovering victims of catastrophic loss:
 - a) the death of the family’s principal wage earner,
 - b) a failed self-employment business situation,
 - c) loss of employment due to factory shutdown,
 - d) an employer’s reduction in work force, or
 - e) victims of domestic violence that are legally separated from their spouses.

The household may not own another residence even if that residence is being rented.

PLAN REVIEW

Have in your project files documentation that all plans for substantial reconstruction projects and new construction resulting from homeownership financing have been reviewed and approved by the grantee must be in the files.

SUPPORTIVE SERVICES

Each file must contain evidence that the rehab beneficiaries received the home maintenance and financial counseling supportive services. The file should also document if other supportive services were provided directly to the project area beneficiaries. This would include documentation of job training and/or counseling, childcare services, transportation services, etc.

Document the receipt of supportive services with a sign-in sheet for the classes or seminars, or the signature of at least one member of each household that receives rehabilitation or down payment assistance.